IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 549 OF 2000

Mahadeo Ranaba Kambale. ... Appellant.
Versus.
Govind Babu Naik & others. ... Respondents.

Shri M.F.Suryawanshi for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 20th January, 2005.

P.C.:

1. The Second Appeal is preferred by the unsuccessful Plaintiff. The suit filed by the Appellant was for mandatory injunction for removal of construction made by the Respondents. The trial Court declined to grant relief of mandatory injunction. However, the trial Court granted prohibitory injunction restraining the Respondents from disturbing the alleged possession of the Appellant over the suit field save and except the area of two gunthas on which the Respondents have constructed the house. The Appellant/Plaintiff did not prefer any appeal and accepted the decree.

2. In an appeal preferred by the Respondents before the District Court, decree passed in favour of the Appellant herein has been set aside. It is obvious that the relief of prohibitory injunction could not have been granted in favour of the Appellant as the said relief

was not prayed for in the plaint. Hence I find no fault with the Judgment of the Appellate Court. No substantial question of law arises in the Second Appeal. Hence the Second Appeal is dismissed with no order as to costs.

Judge.